

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of :

Application by Verizon Pennsylvania, Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks, Inc., And Verizon Select Services, Inc. For Authorization to Provide In-Region, InterLATA Services in Pennsylvania. :

CC Docket No. 01-138

**REPLY COMMENTS
REGARDING APPLICATION BY VERIZON PENNSYLVANIA, INC.
FOR AUTHORIZATION TO PROVIDE IN-REGION,
INTERLATA SERVICES IN PENNSYLVANIA**

SUBMITTED BY

PENNSYLVANIA OFFICE OF SMALL BUSINESS ADVOCATE

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I. INTRODUCTION AND SUMMARY OF ARGUMENT

A. Introduction

On June 21, 2001, Verizon of Pennsylvania, Inc. (“VZ-PA”)¹, et al. filed its application for authorization to provide in-region, interLATA service in the Commonwealth of Pennsylvania pursuant to section 271 of the federal Telecommunications Act of 1996 (“TA-96” or the “Act”)². Also on June 21, 2001, the Federal Communications Commission (“Commission” or “FCC”) provided Public Notice establishing procedural requirements that apply to processing and participation in the proceeding.

The Pennsylvania Public Utility Commission (“PaPUC”) filed its written consultation on June 25, 2001 in compliance with the procedural schedule. Various parties including Broadslate Networks, Inc., CTSI, Inc. (“CTSI”), XO Communications, Inc. (“XO”) (collectively, “Joint Parties”) and the Pennsylvania Office of Consumer Advocate (“PaOCA”) (Joint Parties and PaOCA collectively, “opponents”) submitted comments in accordance with the procedural schedule on or before July 11, 2001. The U.S. Department of Justice (“DOJ”) filed its written consultation in the matter on July 26, 2001. The FCC established by Public Notice that any interested third party Reply Comments are due on or before August 6, 2001.

The Pennsylvania Office of Small Business Advocate (“PaOSBA”) submits these Reply Comments in compliance with the procedural schedule and in response to the Comments of the Joint

¹Full application read, Verizon Pennsylvania, Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Gloabal Networks Inc., and Verizon Select Services, Inc.

²47 U.S.C. § 271.

Parties and PaOCA. It is the intent of the PaOSBA through these Reply Comments to provide an alternative perspective and clarification on the white pages directory listings, an issue in dispute in this proceeding that affects the interests of VZ-PA's customers -- especially its small business customers.

B. Summary of Comments

Simply put, the Comments of CTSI and XO recommend emphatic rejection of VZ-PA's Application without greater automation in the processing of competitive local exchange carrier ("CLEC") white pages listings. Additionally, the PaOCA recommends noncompliance with the white pages checklist item because the processing of listings as they existed when service was obtained from the incumbent local exchange carrier ("ILEC") is reentered into the system once the customer leaves the incumbent to a competitor. The PaOSBA finds that this result of noncompliance with the white pages checklist item is drastic and unreasonable based on the evidence.

The standard of satisfactory performance of parity in the processing of white pages should be reasonable similarity. To hold VZ-PA to 100% parity in the processing of white pages as well as the product that they produce for their customers, the CLEC, is to never obtain compliance. Further, to condone CLECs of unaccountability for lower accuracy due to their own errors and understanding of the process as for information in white pages directory listings is illogical. A noncompliance result is not supported by the evidence. It would delay dividends related to innovations, service discounts, customization and quality to Pennsylvania small businesses where a result of 100% equivalency to the process for VZ-PA's retail customers can never be obtained. The PaOSBA cannot make such a recommendation and the PaPUC saw the wisdom in not abiding by that standard.

II. WHITE PAGES DIRECTORY LISTINGS – Checklist item 8 (47 U.S.C. § 271(c)(2)(B)(viii))

1. Statutory Standard

TA-96 requires the ILEC to provide “white pages directory listing for customers of the other carrier’s telephone exchange service.”³ The Act also requires all ILECs to permit CLECs providing local and toll telephone service to have nondiscriminatory access to directory listings.⁴

³47 U.S.C. § 271(c)(2)(B)(viii).

⁴47 U.S.C. § 251(b)(3).

This Commission has previously concluded, “consistent with the Commission’s interpretation of ‘directory listing’ as used in section 251(b)(3), the term, ‘white pages’ in section 271(c)(2)(B)(viii) refers to the local alphabetical directory ... includ[ing] the residential and business listings of the [local exchange carriers’] customers.”⁵ It has also been concluded that the term “directory listing” as used here refers to, at a minimum, the subscriber’s name, address, telephone number, or any combination of those elements.⁶ Lastly, the Commission has established a two prong test to demonstrate compliance with checklist item 8. The ILEC must establish that it provides: (1) nondiscriminatory appearance and integration of white page directory listings to CLECs’ customers; and (2) white page listings for CLECs’ customers with the same accuracy and reliability as provided to its own customers.⁷

Regarding the first prong, the FCC has previously stated, “To compete effectively in the local exchange market, new entrants must be able to provide service to their customers at a level that is comparable to the service provided by the BOC.... A white pages directory listing [supplied] in a nondiscriminatory fashion require[s] that the listing the BOC provides to a competitor’s customers is identical to, and fully integrated with, the BOC’s customers’ listings.”⁸ To comply with nondiscriminatory accuracy and reliability of white page listings the FCC “require[s] that, at a

⁵In the Matter of Application of BellSouth Corp., et al, for Provision of In-Region, InterLATA Services in Louisiana, (“Second BellSouth Louisiana Order”), 13 FCC Rcd 20748, Memorandum Opinion and Order, FCC 98-271, ¶ 255, (rel. October 13, 1998).

⁶Id. See also, In the Matter of Application by SBC Communications, Inc., et al., Pursuant to Section 271 of the Telecommunications Act Of 1996 To Provide In-Region, InterLATA Services in Texas, (Texas 271 Order), 15 FCC Rcd. 18354, Memorandum Opinion and Order, FCC 00-238, ¶ 353 (rel. June 30, 2000).

⁷Id.

⁸Second BellSouth Louisiana Order, 13 FCC Rcd 20748, ¶ 256.

minimum, a BOC have procedures in place that are intended to minimize the potential for errors in the listings provided to the customers of a competing telecommunications service provider.”⁹ No party has contested the integration or appearance of the listings. Opponents have challenged whether difficulties resulting in errors and omissions of the white pages directory listings experienced by some CLECs reflect systemic problems with the ILEC’s provisioning process. Additionally, these parties assert that the ILEC’s provisioning process of white pages listings yields discriminatory treatment of some CLECs’ listings.¹⁰

2. VZ-PA has Demonstrated Compliance

⁹Id., 13 FCC Rcd 20749, ¶ 257.

¹⁰A conclusion affirming this issue would result in VZ-PA not satisfying the second prong of the compliance test for white pages directory listing accuracy and reliability.

The Joint Parties commented that VZ-PA has provided erroneous or omitted directory listings for many of their customers. They also assert that VZ-PA's performance has failed to meet its parity obligations under Checklist item 8 for directory listings. The result of VZ-PA's performance according to the Joint Parties is that directory listing errors are disproportionately more frequent for facilities-based CLECs than for CLECs utilizing UNE platform, resellers and VZ-PA's retail customers.¹¹

The OSBA finds the assertions of the Joint Parties inflated and one-sided.

VZ-PA experienced 1,156 white pages directory listing errors for its retail customers in 2000. Considering just three published directories, CLEC customers had a total of 2,119 erroneous listings in 2000.¹² The record evidence however is not complete or compelling to warrant the problem of sufficient magnitude for noncompliance.

This Commission previously has found the following as persuasive evidence : (1) the ILEC provides the CLEC with instructions for obtaining a listing in the white pages directory inclusive of format, descriptions, schedules and updating procedures; and (2) the ILEC affords the CLECs a

¹¹Comments of Broadslate Networks, Inc., CTSI, Inc, and XO Communications, Inc., Application by Verizon Pennsylvania, Inc. for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Pennsylvania, CC Docket No. 01-138, July 11, 2001, at 15-16.

¹²See, OSBA Final Comments, Consultative Report on Verizon-Pennsylvania, Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, (PaOSBA Final Comments) Docket No. M-00001435, April 18, 2001, at 5 (attached here at Appendix B).

reasonable opportunity to verify the accuracy of listings to be included in the white pages directory.¹³ According to the record, VZ-PA has met this minimum standard here. No opponent has offered evidence to the contrary.

¹³Second BellSouth Louisiana Order, 13 FCC Rcd 20749-50, ¶ 258.

The record shows that the complaining facilities-based CLECs have misunderstood rules that VZ-PA has had in place for receiving white pages listings data, transmitted typographical errors to VZ-PA for publication in the directories and failed to comprehend the consequences of the process which may have resulted in incorrect end users' listings.¹⁴ Additionally, there remains the possibility of unreported errors to VZ-PA, CLECs do not track errors, no complaints have been filed with the PaPUC on white pages listing accuracy, third party KPMG Consulting found VZ-PA provisioned over 98% test orders and the CLEC community proposed and chose a remedy concerning white pages provisioning that may not be implemented until, best case, February 2002. Yet, no opponent petitioned the PaPUC to explore expediting implementation of the remedy in Pennsylvania.¹⁵ The magnitude and severity of a white pages directory listing problem becomes questionable upon the backdrop of this record evidence.

This Commission has held that it cannot hold the ILEC to a standard of perfection. Evidence of a systemic problem involving irregularities with a significant number of listings, however, would

¹⁴PaOSBA Final Comments, at 7. (PaPUC Tech. Conf. 3-1-01 Tr. at 207-11; PaPUC Tech. Conf. 3-21-01 Tr. at 36-51, 54-60, 67-70, 168-72.)

¹⁵See, PaPUC Consultative Report, Re Application of Verizon Pennsylvania, Inc., et al, for Authorization Under Section 271 of Communications Act to Provide In-Region, InterLATA Service in the Commonwealth of Pennsylvania, (PaPUC 271 Consultative Report); CC Docket No. 01-138, at 208, and also Response of OSBA to Staff's Data Request Number 1, Docket No. M-00001435, May 7, 2001 (Attached here at Appendix C).

warrant noncompliance. The PaOCA alleges a systemic problem in the provisioning of directory listings.¹⁶

¹⁶Comments of the Pennsylvania Office of Consumer Advocate in CC Docket No. 01-138, Application by Verizon Pennsylvania, Inc. for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Pennsylvania, (PaOCA Comments), July 11, 2001, at 18.

Again, the PaOSBA cannot agree. The facilities-based CLECs must bear some of the responsibility for incorrect and omitted listings in the published white pages directory as a consequence of their misunderstandings and miscommunications with VZ-PA during the processing. Additionally, the CLECs do not monitor errors in the white pages directory publications.¹⁷ VZ-PA has proposed that the CLECs have one contact for communicating errors in the listing verification reports.¹⁸ This modification in the directory listing process was solicited by the CLECs.

Furthermore, the opponents seem to disregard that the ILEC is not to be held to a standard of perfection. The OSBA witness, Mr. Stanford Levin, Ph. D., testified to the following:

MR LEVIN: [D]irectories are not 100 percent accurate and the processes are not 100 percent accurate, and I don't think that you'll ever have 100 percent parity, but ... I think it's close enough. There are problems on both sides and I do think people are trying to resolve those problems.

* * *

COMMISSIONER FITZPATRICK: Do you have any idea of the magnitude of the difference in the quality with regard to the directory listings?

MR LEVIN: Between the CLECs and [VZ-PA], no, I don't know.

COMMISSIONER FITZPATRICK: That being the case, how – this is one of the 14 checklist items. I mean, they have to demonstrate compliance with this. Without any idea based upon facts of error rate for [VZ-PA's] own listings versus the CLEC listings, how can you say that this has been met in a nondiscriminatory manner?

MR LEVIN: I have two parts to my response.

COMMISSIONER FITZPATRICK: Okay.

MR LEVIN: One is that as you can just hear from VZ-PA, the error rate even for the CLECs is quite low. The directory they were talking about, for instance, was 99.2 percent correct. So there was an eight-tenths of one percent error rate even for the CLECs.

¹⁷See, PaPUC 271 Consultative Report, at 208.

¹⁸Id. at 195.

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MR LEVIN: ...Second of all, there is an advantage to allowing [VZ-PA] to provide in-region long distance, and that introduces more competition and it is particularly advantageous to small business customers and I would assume to residential customers...

COMMISSIONER FITZPATRICK Well, that second point now sounds like, well, we'd like to let them in, so maybe we're willing to overlook some other things.

MR LEVIN: No. I think it goes more to the unattainability of a perfection standard. If we hold [VZ-PA] to perfection, then they never enter the long distance market, because it is impossible to be 100 percent correct. I just think that it's important when we decide how close to perfect that we want, that we understand that there is a tradeoff.¹⁹

The OSBA agrees with the conclusion of the PaPUC that the magnitude of the problems experienced on this issue, does not rise to noncompliance.²⁰

3. Infirm Metric Issue Should Not Bar Compliance

The PaOCA requests that a metric be developed relating to the accuracy of directory listings.²¹ The PaOCA lists the current metrics related to directory listings as: OR-6, Order Accuracy; PO-2, OSS Interface Availability; and GE-1, Directory Listing Verification Reports. None of these metrics measure the accuracy of the directory listings as published.

The irregularities in listing processing and in the published directories should be monitored and deciphered to protect the consumer from economic hardship suffered from erroneous and omitted listings. The metrics currently in place are insufficient in tracking directory listing

¹⁹PaPUC April 26, 2001 En Banc Hearing, Tr. 352-54 (attached as Appendix A).

²⁰PaPUC 271 Consultative Report, at 208.

²¹PaOCA Comments, at 28.

accuracy.²² The PaOCA demonstrates by referencing record evidence that VZ-PA does not track the error rate of published CLECs' listings versus Va-PA's retail customers listings. The PaOCA comments that a metric be required to illuminate directory listing problems and to resolve them.²³

²²Id at 31.

²³Id.

The PaOSBA commented similarly to the PaPUC. The PaOSBA requested that should the PaPUC recommend approval of VZ-PA's Application, approval should be contingent upon VZ-PA creating, tracking, implementing and subjecting itself to penalties corresponding to a directory listing accuracy metric before compliance.²⁴

The PaPUC, however, concluded, "[w]hile the record suggests the merit of having a directory listing accuracy metric, we do not presently believe that establishment of such a metric is required as a pre-condition for attaining compliance with Checklist item 8."²⁵ Additionally as the PaOCA concedes in its Comments, "the [PaPUC] has commenced a proceeding, Re: Performance Measure Remedies at Docket No. M-00011468, in part to deal with the issue of metric development...."²⁶

The PaPUC stated,

...Verizon PA offers to work with interested parties in the forthcoming metrics and remedies proceeding to develop an appropriate metric, within the present OR-6 Order Accuracy metric, to measure the accuracy of CLEC directory listing information which would involve a daily sampling of manually processed "loop/LNP" and "LNP only" LSRs and DSRs.²⁷

It is clear that there is no controversy over whether there should be a metric to measure directory listing accuracy. The issue currently is when such metric will be implemented. While the PaOSBA's

²⁴PaOSBA Final Comments, at 13-15.

²⁵PaPUC 271 Consultative Report, at 209.

²⁶PaOCA Comments at 31-32 (footnote omitted).

²⁷PaPUC 271 Consultative Report, at 196 (footnote omitted).

preferred course of action would have been for the PaPUC to order compliance contingent upon a date certain for a white pages accuracy metric to be implemented, we can accept the current outcome rather than to have this Commission bar VZ-PA's Application on this issue.

3. CONCLUSION

For the reasons set forth in these Reply Comments the Pennsylvania Office of Small Business Advocate respectfully requests this honorable Commission to affirm the recommendation of the Pennsylvania Public Utility Commission and approve the Application of Verizon Pennsylvania, Inc, et al., as in compliance with Sections 251(b)(3) and 271(c)(2)(B)(viii) of the federal Telecommunications Act of 1996 consistent with the arguments contained herein.

Respectfully submitted,

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Dated: August 6, 2001